



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 8, 1998

Mr. Helmut (Hal) Talton
Associate General Counsel
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

OR98-3006

Dear Mr. Talton:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 119987.

The Texas Department of Transportation (the "department") received a request for information concerning an applicant and a job vacancy, including the job interview questions and answers. You assert that the job interview questions and answers are excepted from disclosure under section 552.122 of the Government Code, and that a marked portion of one of the questions is protected from disclosure under section 552.117 of the Government Code.

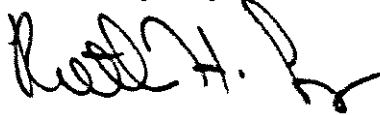
Section 552.122(b) excepts from disclosure "[a] test item developed by an educational institution that is funded wholly or in part by state revenue." In Open Records Decision No. 626 (1994), this office determined that the term "test item" in section 552.122 includes any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated, but does not encompass evaluations of overall job performance or suitability. Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. Open Records Decision No. 626 at 6 (1994). You urge that the interview questions and answers be withheld because the department plans to re-use the questions for future job vacancies. We note that while section 552.122 may apply where release of test items might compromise the effectiveness of future examinations, they first must be the type of question which falls within the definition of a "test item". *Id.* at 4-5, *see also* Open Records Decision No. 118 (1976). The questions and answers at issue may indicate overall job qualification, but are not test items within the scope of section 552.122.

Although the questions and answers may not be withheld from disclosure on the basis of section 552.122, we agree that one portion of the records is protected from disclosure

under section 552.117. Sections 552.024 and 552.117 provide that a public employee or official can opt in writing to keep private his or her home address, home telephone number, social security number, or information that reveals that the individual has family members. This information must be protected from public disclosure if, as of the time of the request for the information, the employee had elected to keep the information private. Open Records Decision Nos. 530 at 5 (1989), 482 at 4 (1987), 455 (1987). You state that the applicant is a public employee who had, prior to receipt of this request for information, elected under sections 552.024 and 552.117 to have his personal information protected. Thus, the portion of one answer which you have highlighted is protected from disclosure under section 552.117.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', with a stylized flourish at the end.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 119987

Enclosures: Submitted documents

cc: Ms. Rene Mendez
P.O. Box 1041
Van Horn, Texas 79855
(w/o enclosures)